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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,159	12/26/2001	Jess R. Booth	272/123	6377

167 7590 10/07/2003

FULBRIGHT AND JAWORSKI L L P  
PATENT DOCKETING 29TH FLOOR  
865 SOUTH FIGUEROA STREET  
LOS ANGELES, CA 900172576

EXAMINER

MULCAHY, PETER D

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,159

Applicant(s)

BOOTH ET AL.

Examiner

Peter D. Mulcahy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 87-93 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Derwent Abstract No. AN-18604356.

This patent shows a composition based on the instantly claimed thermoplastic polymer having added thereto the claimed cristobalite and aluminum oxide. The weight percentages of these ingredients appear to fall within the scope of that as instantly claimed. The Examiner maintains that it would be prima facie obvious to formulate the composition as claimed from this disclosure since each of the ingredients is disclosed and suggested to one of ordinary skill in the art that they be used in combination with one another.

Claims 32-93 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Akao et al., U.S. Patent 5,492,741 or Hedrick et al., U.S. Patent 3,843,591.

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Each of these patents shows thermoplastic polymeric compositions and articles made therefrom. These thermoplastic polymers can be those as instantly claimed. See specifically Akao at column 3, lines 55+ as well as Hedrick at column 3 line 60+. The instantly claimed oxide fillers and the amounts as claimed are rendered obvious from the disclosure of Akao at column 16 lines 1+ and columns 7 and 8 of Hedrick. While it is acknowledged that applicants' specifically claimed composition is not exactly exemplified within this prior art, the claims remain prima facie obvious from this art. Each of applicants' ingredients is shown and suggested to be used in combination with one another as claimed. One of ordinary skill in the art would find it prima facie obvious to utilize these compounds in combination with one another as claimed given the prior art's suggestion to do so. One of ordinary skill in the art would have a reasonable expectation of success when combining the ingredients as instructed by the art. As such, the claims are not patentable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy, whose telephone number is (703) 308-2449. The examiner can normally be reached on Tuesday through Friday from 7:30 A.M. to 6:00 P.M.

The fax telephone number for this group is (703) 872-9306.


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Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

P. Mulcahy:cdc  
September 26, 2003



**PETER D. MULCAHY**  
**PRIMARY EXAMINER**